

## NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

### NOTICE OF EXEMPT RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

*Editor's Note: The following Notice of Exempt Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2931.)*

[R13-158]

#### PREAMBLE

- 1. Article, Part, or Section Affected (as applicable)**  
R2-20-109
- Rulemaking Action**  
Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**  
Authorizing statute: A.R.S. § 16-940, *et seq.*  
Implementing statute: A.R.S. § 16-956(C).
- 3. The effective date of the rule:**  
Amendment to R2-20-109(A), (A)(4), (B-E): October 6, 2011  
Amendment to R2-20-109(A) and (C)(2): August 29, 2013  
Amendment to R2-20-109(C)(3): January 1, 2014
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**  
Not applicable
- 5. The agency's contact person who can answer questions about the rulemaking:**  
Name: Thomas M. Collins, Executive Director  
Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007  
Telephone: (602) 364-3477  
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E-mail: thomas.collins@azcleelections.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**  
R2-20-109. Reporting Requirements  
Amends R2-20-109(A)(2) to clarify participating candidates using personal funds to make expenditures on behalf of the campaign must reimburse the campaign within seven calendar days or the expenditures is deemed an in-kind contribution.  
Recodifies R2-20-109(2), (3), (4), and (5) as R2-20-109(3), (4), (5), and (6). No substantive change.  
Amends R2-20-109(B-C) to eliminate rules pertaining to matching funds and independent expenditures.  
Amends R2-20-109(C)(2) to address mileage reimbursement rates for participating candidates.  
Amends R2-20-109(C)(3) to require participating candidates to reimburse air travel within 7 days from the date of travel.  
Amends R2-20-109(E) is added to clarify reporting requirements for participating candidates.

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7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:  
Not applicable
8. A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:  
Not applicable
9. The summary of the economic, small business, and consumer impact, if applicable:  
Not applicable
10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):  
There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.
11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:  
The Commissioners solicited public comment throughout the rulemaking process.  
The Commissioners considered the rule in open meetings and took actions they deemed appropriate.
12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:
  - a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:  
Not applicable
  - b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law  
Not applicable
  - c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:  
Not applicable
13. A list of any incorporated by reference material and its location in the rule:  
Not applicable
14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:  
Not applicable
15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-109. Reporting Requirements

ARTICLE 1. GENERAL PROVISIONS

**R2-20-109. Reporting Requirements**

- A. ~~Reporting of transactions; software provided or approved by the Secretary of State. All campaign finance reports shall be filed in electronic format in accordance with A.R.S. § 16-958(E). The Commission shall coordinate with the Secretary of State to make electronic filing computer software available to candidates. Campaign finance reports shall be available on the Secretary of State's web site. All candidates shall file campaign finance reports that include all receipts and disbursements for their current campaign account using the campaign finance computer software provided or approved by the Secretary of State the Secretary of State's Internet based finance reporting system as follows:~~
  1. Expenditures for consulting, advising, or other such services to a candidate shall include a detailed description of what is included in the service, including an allocation of services to a particular election. When appropriate, the Commission may treat such expenditures as though made during the general election period, and equalizing funds pursuant to A.R.S. § 16-952 shall be paid at the start of the general election period.

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2. If a participating candidate makes an expenditure on behalf of the campaign using personal funds, the candidate's campaign shall reimburse the candidate within seven calendar days of the expenditure. After the 7-day period has passed, the expenditure shall be deemed an in-kind contribution subject to all applicable limits.
23. Original and supplemental campaign finance reports filed pursuant to A.R.S. §§ 16-941 and 16-958 shall include the same information regarding receipts and disbursements as required by A.R.S. § 16-915.
34. A candidate may authorize an agent to purchase goods or services on behalf of such candidate, provided that:
  - a. The candidate shall report an expenditure as of the date that the agent promises, agrees, contracts or otherwise incurs an obligation to pay for the goods or services;
  - b. The candidate shall have sufficient funds in the candidate's campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations of the candidate's campaign committee; and
  - c. Within seven calendar days of the date upon which the amount of the expenditure is known, the candidate shall pay such amount from the candidate's campaign account to the agent who purchases the goods or services.
5. ~~A joint expenditure is made when two or more candidates agree to share the cost of goods or services. Candidates may make a joint expenditure on behalf of one or more other campaigns, but must be authorized in advance by the other candidates involved in the expenditure, and must be reimbursed within seven days.~~
4. ~~In the event that a candidate purchases goods or services from a subcontractor or other vendor through an agent pursuant to subsection (A)(3), the candidate's campaign finance report shall include the same detail as required in A.R.S. § 16-948(C) for each such subcontractor or other vendor. Such detail is also required when petty cash funds are used for such expenditures.~~
56. For the purposes of the Act and Commission rules, a candidate or campaign shall be deemed to have made an expenditure as of the date upon which the candidate or campaign promises, agrees, contracts or otherwise incurs an obligation to pay for goods or services.
- B. Participating candidate reporting requirements.** In addition to the campaign finance reports filed pursuant to A.R.S. § 16-913, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
  1. ~~Prior to filing the application for funding pursuant to A.R.S. § 16-950, participating candidates shall file a campaign finance report with the names of persons who have made qualifying contributions to the candidate.~~
  2. End of qualifying period. At the end of the qualifying period, a participating candidate shall file a recap campaign finance report consisting of a recap of all early contributions received, including personal monies and the expenditures of such monies:
    - a. ~~The recap campaign finance report for the qualifying period shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.~~
    - b. ~~If the recap campaign finance report shows any amount unspent by a participating candidate, the candidate, within five days after filing the recap campaign finance report, shall send the Commission a check from the candidate's campaign account that will remit all unspent early contributions to the fund, pursuant to A.R.S. § 16-945(B). Any unspent personal monies shall be returned to the candidate or the candidate's family member within five days.~~
  3. Primary election and general election recap campaign finance reports. Each participating candidate shall file a campaign finance report consisting of a recap of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made from such candidate's campaign fund to the Clean Elections Fund. If the recap campaign finance report shows any amount unspent by a participating candidate, the candidate, within five days after filing the recap campaign finance report, shall send the Commission a check from the candidate's campaign account that will return all unspent monies to the Fund:
    - a. ~~The recap campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.~~
    - b. ~~The recap campaign finance report for the general election shall be considered filed upon the filing of the post-general campaign finance report filed in accordance with A.R.S. § 16-913(B)(3).~~
- C. Amending Reports.** If a candidate determines that a previously filed campaign finance report contains inaccurate information, then the candidate shall amend the campaign finance report to provide accurate information:
  1. ~~Except when a new election period has started, a participating candidate who received Clean Elections funding based upon an inaccurate campaign finance report shall remit to the Commission the excess funds as determined by the amended campaign finance report within five days after filing the amended campaign finance report.~~
  2. ~~If the participating candidate does not have sufficient funds in his or her account to return the required monies, the balance owed shall be withheld from future equalizing funds due to the participating candidate in the election period during which the excess funds were awarded.~~
- D. Independent expenditures.**
  1. Any individual, group of individuals, corporation, political party or membership organization that makes independent expenditures cumulatively exceeding the amount prescribed in A.R.S. § 16-941(D) in an election cycle that expressly advocate the election or defeat of a specific candidate, as defined in R2-20-101(11), shall file campaign finance reports with the Secretary of State in accordance with A.R.S. § 16-958.
  2. Any individual, group of individuals, corporation, political party or membership organization that makes independent expenditures for literature or an advertisement relating to any one candidate or office within 10 days before the day of any election to which the expenditures relate shall send to the Commission, (a) by overnight delivery; and (b) by facsimile or e-mail, no later than one day after it is mailed, broadcast or published, as applicable, a copy of the campaign

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literature or advertisement together with a statement declaring the cost of producing and distributing such campaign literature or advertisement. The copy of the literature or advertisement sent to the Commission pursuant to this Section shall be a reproduction that is clearly readable, viewable or audible, as applicable.

3. ~~Any individual, group of individuals, corporation, political party or membership organization that fails to file a campaign finance report pursuant to this subsection (D) shall be subject to a civil penalty as described in A.R.S. § 16-942(B), as applicable.~~

~~**E.** The following will be considered to be a “contribution during the election cycle to date” or “expenditures . . . made through the end of the primary election period” for purposes of reporting under A.R.S. §§ 16-941(B)(2) and 16-958(A):~~

- ~~1. A contribution to a candidate to retire debt from a prior election cycle if deposited into the current campaign account;~~
- ~~2. Any contributions received and placed in a future, current, or prior, campaign account during the current election cycle;~~
- ~~3. Surplus funds transferred into the current campaign account;~~
- ~~4. Contributions received or expenditures made beginning 21 days 51 days after the date of the prior general election.~~

**FB.** Timing of reporting expenditures.

1. Except as set forth in subsection (F)(2) below, a candidate shall report a contract, promise or agreement to make an expenditure resulting in an extension of credit as an expenditure, in an amount equal to the full future payment obligation, as of the date the contract, promise or agreement is made.
2. In the alternative to reporting in accordance with subsection (F)(1) above, a candidate may report a contract, promise or agreement to make an expenditure resulting in an extension of credit as follows:
  - a. For a month-to-month or other such periodic contract or agreement that is terminable by a candidate at will and without any termination penalty or payment, the candidate may report an expenditure, in an amount equal to each future periodic payment, as of the date upon which the candidate’s right to terminate the contract or agreement and avoid such future periodic payment elapses.
  - b. For a contract, promise or agreement to provide goods or services during the general election period that is contingent upon a candidate advancing to the general election period, the candidate may report an expenditure, in an amount equal to the general election period payment obligation, as of the date upon which such contingency is satisfied.
  - c. For a contract, promise or agreement to pay rent, utility charges or salaries payable to individuals employed by a candidate’s campaign committee as staff, the candidate may report an expenditure, in an amount equal to each periodic payment, as of the date that is the sooner of (i) the date upon which payment is made; or (ii) the date upon which payment is due.

**GC.** Transportation expenses.

1. Except as otherwise provided in this subsection (G), the costs of transportation relating to the election of a statewide or legislative office candidate shall not be considered a direct campaign expense and shall not be reported by the candidate as expenditures or as in-kind contributions.
2. If a candidate travels for campaign purposes in a privately owned automobile, the candidate may use campaign funds to reimburse the owner of the automobile at a rate not to exceed the state mileage reimbursement rate ~~(which is 44.5¢ per mile in 2007)~~, in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure. If a candidate chooses to use campaign funds to reimburse, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement was made. Traditional candidates may reimburse in a similar fashion, but are not required to stay within the State mileage rate.
3. Use of airplanes.
  - a. If a candidate travels for campaign purposes in a privately owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse owner of the airplane at a rate of \$150 per hour of flying time, in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure. If the owner of the airplane is unwilling or unable to accept reimbursement, the candidate shall remit to the fund an amount equal to \$150 per hour of flying time.
  - b. If a candidate travels for campaign purposes in a state-owned airplane, within 7 days from the date of travel the candidate shall use campaign funds to reimburse the State for the portion allocable to the campaign in accordance with subsection (3)(a), above. The portion of the trip attributable to state business shall not be reimbursed. If payment to the State is not possible, the payment shall be remitted to the Clean Elections Fund.
4. If a candidate rents a vehicle or purchases a ticket or fare on a commercial carrier for campaign purposes, the actual costs of such rental (including fuel costs), ticket or fare shall be considered a direct campaign expense and shall be reported as an expenditure.

**D.** Participating Candidates

1. Participating candidate reporting requirements. In addition to the campaign finance reports filed pursuant to A.R.S. § 16-913, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
  - a. Prior to filing the application for funding pursuant to A.R.S. § 16-950, participating candidates shall file a campaign finance report with the names of the persons who have made qualifying contributions to the candidate.
  - b. At the end of the qualifying period, a participating candidate shall file a campaign finance report consisting of all

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- early contributions received, including personal monies and the expenditures of such monies.
- i. The campaign finance report shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.
    - ii. If the campaign finance report shows any amount unspent monies, the participating candidate, within five days after filing the campaign finance report, shall remit all unspent contributions to the Fund, pursuant to A.R.S. § 16-945(B). Any unspent personal monies shall be returned to the candidate or the candidates' family member within five days.
  2. Primary election and general election campaign finance reports. Each participating candidate shall file a campaign finance report consisting of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made to the Clean Elections Fund. If the campaign finance report shows any amount unspent, the participating candidate, within five days after filing the campaign finance report, shall send a check from the candidate's campaign account to the Commission in the amount of all unspent monies to be deposited the Fund.
    - a. The campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.
    - b. The campaign finance report for the general election shall be considered filed upon the filing of the post-general campaign finance report filed in accordance with A.R.S. § 16-913(B)(3).
  3. In the event that a participating candidate purchases goods or services from a subcontractor or other vendor through an agent pursuant to subsection (A)(3), the candidate's campaign finance report shall include the same detail as required in A.R.S. § 16-948(C) for each such subcontractor or other vendor. Such detail is also required when petty cash funds are used for such expenditures.